



The Commonwealth of Massachusetts
DEPARTMENT OF
TELECOMMUNICATIONS AND ENERGY

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February 6, 2001

Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TW-B-204
Washington, D.C. 20554

Re: In the Matter of the Application by Verizon New England Inc. for Authorization
Under Section 271 of the Communications Act to Provide In-Region,
InterLATA Service in the State of Massachusetts,
CC Docket No. 01-9 /

Dear Secretary Salas:

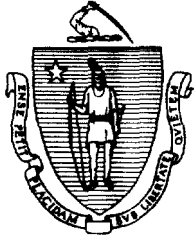
Enclosed are two documents that the Massachusetts Department of Telecommunications and Energy ("Department") neglected to include with its Evaluation of Verizon Massachusetts's Compliance with Section 271 of the Telecommunications Act of 1996, which was sent in a separate overnight mailing. The first document is a two-page original cover letter for the Department's redacted Evaluation. The second document is the last page of Appendix 1 to the Department's Evaluation, the original notarized page of the redacted version of the Simon affidavit.

Please contact Cathy Carpino of the Department with any questions at (617)305-3622.

Sincerely,


Cathy Carpino

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COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION

**DEPARTMENT OF
TELECOMMUNICATIONS & ENERGY**

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Magalie Roman Salas
Secretary
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Washington, D.C. 20554

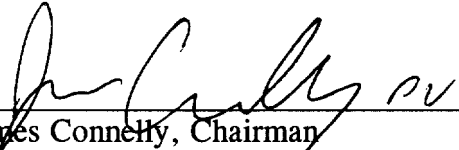
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CC Docket No. 01-9

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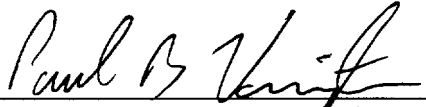
Enclosed is the Massachusetts Department of Telecommunications and Energy's ("MDTE's") Evaluation of Verizon Massachusetts's Compliance with Section 271 of the Telecommunications Act of 1996. Please note that the MDTE is filing a confidential portion of the submission and a redacted version of the entire submission. The MDTE is also providing an electronic version of the redacted version on disk in WordPerfect and PDF formats, in

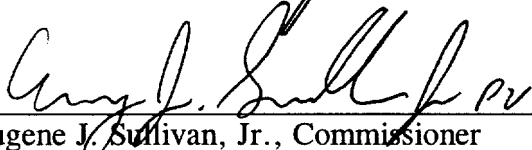
accordance with discussions with the Common Carrier Bureau.

By the Commission,


James Connelly, Chairman


W. Robert Keating, Commissioner


Paul B. Vasington, Commissioner


Eugene J. Sullivan, Jr., Commissioner


Deirdre K. Manning, Commissioner

cc: Susan Pie, Policy and Program Planning Division
Common Carrier Bureau, Room 5-C224

Josh Walls, U.S. Department of Justice
Antitrust Division

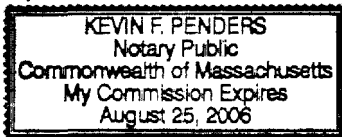
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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.


Scott J. Simon

Sworn to before me this 5th day of
February 2001


Notary Public



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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Application by Verizon New England)
Inc., Bell Atlantic Communications,)
Inc. (d/b/a Verizon Long Distance),)
NYNEX Long Distance Company)
(d/b/a Verizon Enterprise Solutions),)
and Verizon Global Networks Inc.,)
For Authorization Under Section 271 of)
The Telecommunications Act of 1996)
To Provide In-Region, InterLATA)
Services in Massachusetts)

CC Docket No. 01-9
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**EVALUATION OF THE
MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

Commonwealth of Massachusetts
Department of Telecommunications and Energy

Hearing Officers:
Cathy Carpino
Tina Chin

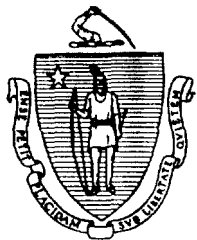
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Dated: February 6, 2001



COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION

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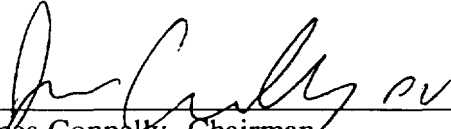
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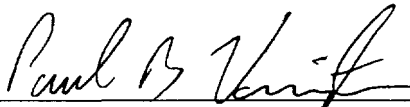
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By the Commission,


James Connelly, Chairman


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cc: Susan Pie, Policy and Program Planning Division
Common Carrier Bureau, Room 5-C224

Josh Walls, U.S. Department of Justice
Antitrust Division

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EXECUTIVE SUMMARY

Last year, the Department of Telecommunications and Energy (“Department”) filed approximately 550 pages of analysis, in addition to hundreds of pages of appendices, of Verizon Massachusetts’ (“VZ-MA”) compliance with the federal requirements contained in § 271 of the Telecommunications Act of 1996. After an exhaustive review of the Department’s § 271 record, we concluded that VZ-MA met its obligations and recommended that the Federal Communications Commission (“FCC”) grant VZ-MA’s application to offer long distance telecommunications services in Massachusetts. For procedural reasons explained in its December 18, 2000 letter to the FCC, VZ-MA withdrew its application and re-filed it on January 16, 2001, together with several hundred pages of supplemental material. To the relief of the Department and -- we expect -- the FCC and interested parties, there is no need for the Department to seek a waiver from the FCC of its 100-page limit for these comments. We limit this Supplemental Evaluation of VZ-MA’s performance to material VZ-MA filed this year and events that occurred subsequent to our November 3, 2000 reply comments in CC Docket No. 00-176.

Nothing filed by VZ-MA in its supplemental application causes any concern to the Department or prompts us to reconsider our earlier, extensive findings. Indeed, VZ-MA’s § 271 supplemental filing supports and further confirms the conclusions we reached last year. In that earlier proceeding, CC Docket No. 00-176, we determined that almost all of VZ-MA’s application was founded in our § 271 record. The only exception of note was one study related to the effect of pre-qualifying loops as opposed to requesting manual loop qualifications on VZ-MA’s digital subscriber line (“xDSL”) provisioning performance. In contrast, several

interested parties did raise concerns about VZ-MA's performance for the first time in their FCC comments. As we mentioned in our reply comments last year, since those parties neglected to make those arguments before us, we could not test their validity. Nonetheless, in response to those concerns, VZ-MA performed additional studies and contracted with independent evaluators to do the same, the results of which are contained in its supplemental application.

As supplemented by the information in its 2001 application, VZ-MA leaves little room for doubt about its compliance with its § 271 obligations. Namely, VZ-MA has provided studies affirming that its provision and repair of xDSL loops is nondiscriminatory, and that its provision and repair of line-shared loops is nondiscriminatory. VZ-MA also has provided carrier-specific data going back to May 2000 to any requesting carrier so that these carriers have every opportunity to challenge VZ-MA's reported performance. The Department will await comments by these carriers and, if necessary, will attempt to reconcile any alleged discrepancies.

As we mentioned in the executive summary from the Evaluation filed last year with the FCC, the local telephone markets in Massachusetts are irreversibly open to competition. That statement is as true today as it was last October. Equally valid today is our conclusion that consumers will benefit from having the option of selecting VZ-MA for long distance service. Based on the totality of the record before the FCC, the Department recommends, without reservation, that the FCC grant VZ-MA's application.

I. INTRODUCTION

On September 22, 2000, Verizon New England, Inc. d/b/a Verizon Massachusetts (“VZ-MA”) filed with the Federal Communications Commission (“FCC”) its application to enter the interLATA, long distance telecommunications market in Massachusetts.¹ On October 16, 2000, the Massachusetts Department of Telecommunications and Energy (“Department” or “D.T.E.”) submitted its comprehensive evaluation (“Evaluation”) of VZ-MA’s performance and competing local exchange carriers’ (“CLECs”) ability to compete in our state. Based on our extensive record,² we determined that VZ-MA complies with its obligations under 47 U.S.C. § 271(c)(2)(B) and that the telecommunications market in Massachusetts is irreversibly open to competition. Additionally, on November 3, 2000, the Department filed comments responsive to concerns raised by several interested parties (“Reply Comments”). We reaffirm our October 16 and November 3 filings now and do so without reservation or exception.

As noted in its December 18, 2000 ex parte letter to the FCC, VZ-MA withdrew its September 2000 § 271 application because of procedural concerns related to the ability of parties to review and comment upon all evidence submitted by VZ-MA in CC Docket No. 00-176. According to VZ-MA, withdrawing and re-filing its FCC application will enable all parties additional opportunity to comment and will also permit VZ-MA to update its

¹ The FCC docketed VZ-MA’s application as CC Docket No. 00-176.

² See D.T.E. Evaluation at 7-16 for a detailed discussion of D.T.E. 99-271, the Department’s investigation of VZ-MA’s compliance with § 271 of the Telecommunications Act of 1996.

application with the most current data, especially with respect to digital subscriber line (“xDSL”) services.³

The Department has reviewed VZ-MA’s supplemental application, which it filed with the FCC on January 16, 2001 and was docketed as CC Docket No. 01-9, and has determined that the analyses and conclusions contained in our Evaluation and Reply Comments remain accurate. Therefore, this supplemental evaluation (“Supplemental Evaluation”) only addresses those discrete areas in which VZ-MA has supplemented its earlier application. Moreover, consistent with the FCC’s Order granting Southwestern Bell Telephone’s (“SWBT”) request to withdraw and re-file its § 271 application for Texas while incorporating the record in the earlier proceeding, the Department requests that the FCC similarly consider, in the instant proceeding, all of the Department’s filings made last year in CC Docket No. 00-176.⁴

In addition to updating its measurement data since its last § 271 application, VZ-MA includes the following new material in its supplemental application: calculation of new and

³ See Letter from Michael E. Glover, Senior Vice President & Deputy General Counsel, Verizon to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket No. 00-176 (filed December 18, 2000).

⁴ Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Texas, Memorandum Opinion and Order, FCC 00-238, at ¶ 16 (2000) (“SWBT Texas Order”). See also Comments Requested on the Application by Verizon New England, Inc. for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of Massachusetts, Public Notice, DA 01-106, at 1 (Jan. 16, 2001) (granting VZ-MA’s request to incorporate its filings from CC Docket No. 00-176).

modified performance metrics, as adopted by the New York Public Service Commission (“NYPSC”) and applicable to Massachusetts; independent, third-party xDSL metric replication by PricewaterhouseCoopers (“PwC”); independent assessment of the comparability of the processes, systems, and procedures used by Verizon⁵ for line sharing in Massachusetts and New York; independent validation that the methods and procedures for line sharing followed by VZ-MA’s data affiliate, VADI,⁶ are identical to those used by CLECs, and that VZ-MA processes the line sharing orders of both VADI and CLECs in the same manner; independent analysis of VZ-MA’s xDSL provisioning performance; and information confirming that VZ-MA’s rates for unbundled switching are at the same levels as those rates approved by the NYPSC, which the FCC already has found to be consistent with total element long run incremental cost (“TELRIC”) principles.

Other than determining that PwC’s metric replication process was consistent with that used by KPMG and the Department, as described in our Evaluation and Reply Comments,⁷ the Department has reviewed but not tested PwC’s findings with respect to the following areas contained in the Sapienza/Mulcahy supplemental declaration (and the accompanying attachments): (a) comparability of line sharing processes, systems, and procedures used by

⁵ Consistent with our Evaluation and Reply Comments, in this Supplemental Evaluation, the Department uses the term “Verizon” to refer to the corporate parent of VZ-MA.

⁶ Verizon Advanced Data Inc. (“VADI”). See VZ-MA Supplemental Application, Appdx. A, Vol. 2, Tab 4, at ¶ 1 (Dowell Supp. Decl.).

⁷ See D.T.E. Evaluation at 44-196; see also D.T.E. Reply Comments, Appdx. A.

Verizon in Massachusetts and New York; (b) similarity of interface options available to both VADI and non-affiliated CLECs, and whether VZ-MA treats transactions from VADI in the same manner as transactions from non-affiliated CLECs; and (c) accuracy and consistency of VZ-MA's Massachusetts xDSL studies.⁸ Similarly, we have reviewed the Dowell supplemental declaration and note that, as described in this declaration, it appears that VADI follows the same procedures available to CLECs to order line sharing from VZ-MA. VZ-MA's intention and plan to set up a separate data affiliate was a matter of record in our state § 271 proceeding (i.e., D.T.E. 99-271), but VADI was not operational during the pendency of our § 271 proceeding. However, because PwC performed an independent analysis testing VZ-MA's assertions about the methods and procedures available to VADI and non-affiliated CLECs, the Department finds that the Dowell supplemental declaration is persuasive. Moreover, there is no information before us that would lead us to question the accuracy of this declaration or of the Sapienza/Mulcahy supplemental declaration.

In addition to corroborating the Department's conclusions contained in last year's Evaluation and Reply Comments, VZ-MA's supplemental application addresses all issues

⁸ VZ-MA Supplemental, Application Appdx. A, Vol. 2, Tab 2, at ¶ 9 (Sapienza/Mulcahy Supp. Decl.). According to PwC, it required almost 50 employees and over 4,400 hours to perform the work described above in addition to its xDSL metric replication (id. at ¶ 11). We also have not tested Lexecon's reconciliation of the number of orders captured by different metrics. See VZ-MA Supplemental Application, Appdx. A, Vol. 2, Tab 3, at ¶¶ 19-29 (Gertner/Bamberger Supp. Decl.). Should a CLEC produce documentation refuting Lexecon's study, the Department will review the competing filings in an effort to reconcile the differences.

raised in the December 18, 2000 statement of former FCC Chairman Kennard. According to Mr. Kennard, VZ-MA's re-filed application should contain "verified data reflecting acceptable levels of performance, including an independent showing for loops used to provide advanced services, and sufficient information to permit competitors an adequate opportunity to respond."⁹ PwC and Lexecon¹⁰ are independent evaluators of VZ-MA's data, including data related to xDSL-capable and line-shared loops; and VZ-MA indicates that it has provided CLEC-specific reports to requesting carriers (including data going back to May 2000) and, on a going-forward basis, will provide such reports to requesting CLECs by the 25th day of the following month. Furthermore, within the next several months, VZ-MA expects this information will be obtainable by CLECs over a secure web site.¹¹

Mr. Kennard also noted that VZ-MA's supplemental application should address the following three issues: (a) nondiscriminatory provisioning of loops used by competitors to provide advanced services, (b) improved access to the systems and information necessary to order loops used to provide advanced services, and (c) pricing of elements used by competitors

⁹ "Statement of FCC Chairman William E. Kennard on Verizon 271 Filing," December 18, 2000 <<http://www.fcc.gov/Speeches/Kennard/Statements/2000/stwek094.html>>.

¹⁰ Drs. Gertner and Bamberger are senior vice presidents of Lexecon Strategy Group ("Lexecon"). When we use the term "Lexecon" in our Supplemental Evaluation, it should be understood to include the work performed by these gentlemen as set forth in their supplemental declaration and accompanying attachments.

¹¹ VZ-MA Supplemental Application, Appdx. A, Vol. 1, Tab 1, at ¶ 17 (Lacouture/Ruesterholz Supp. Decl.).

based on forward-looking costs.¹² As documented in the supplemental declarations (and attachments) and as discussed below, the Department concludes that VZ-MA provisions xDSL-capable loops in a nondiscriminatory manner. Additionally, since VZ-MA filed its § 271 application last fall, it has made several improvements to its operations support systems (“OSS”) used by CLECs to order xDSL loops. Finally, procedural questions related to the timing of VZ-MA’s Department-approved reduction in local switching unbundled network element (“UNE”) rates have been addressed since VZ-MA included those reductions as part of its initial filing in CC Docket No. 01-9. Also, the Department has begun, and is in the process of conducting, its scheduled review of all of VZ-MA’s UNE and resale rates.

Approximately one month prior to VZ-MA’s § 271 filing last September, Verizon experienced a work stoppage throughout its former Bell Atlantic service territory. In Massachusetts, this strike lasted from August 6 to August 21.¹³ As detailed in VZ-MA’s reply comments, this strike adversely affected both VZ-MA’s retail and wholesale performance for

¹² “Statement of FCC Chairman William E. Kennard on Verizon 271 Filing,” December 18, 2000.

¹³ VZ-MA Supplemental Application, Appdx. A, Vol. 2, Tab 2, at ¶ 76 (Sapienza/Mulcahy Supp. Decl.). On January 26, 2001, the Department sent VZ-MA a question seeking clarification about the strike dates and the effect of the strike on VZ-MA’s performance data. On January 30, 2001, VZ-MA responded that, pursuant to an agreement with the union, VZ-MA’s union employees were given 48 hours to report back to work at the end of the strike. Moreover, VZ-MA uses union employees from other Verizon states to assist in its collocation work, for example. Thus, the direct effects of the work stoppage continued beyond August 21, 2000, which was technically the last day of the strike in Massachusetts. See Appdx. 2 (VZ-MA Responses to D.T.E. Work Stoppage Questions Based on VZ-MA’s Supplemental Application).

August and, in some instances, through last fall.¹⁴ We expect some CLEC commenters will urge the FCC not to consider VZ-MA's performance data that exclude strike-affected orders, arguing that, as reported last fall, the monthly Carrier-to-Carrier ("C2C") Guideline reports accurately captured VZ-MA's performance. While such an assertion may be true on its face, whether VZ-MA treated its competitors in a nondiscriminatory manner seems to the Department to be the best indicator of VZ-MA's true performance during the work stoppage. In addition, the Department-approved Performance Assurance Plan ("PAP") expressly lists a work stoppage as a basis for a VZ-MA waiver request to modify monthly service quality results for those performance measures with absolute standards.¹⁵

VZ-MA reviewed almost forty metrics, the data for which appeared out of parity in the August C2C report and, as a result, decided to examine 25 of these measurements in greater detail.¹⁶ Based on its analysis, which was presented in CC Docket No. 00-176, VZ-MA determined that its practices during the work stoppage, which aided CLECs at the expense of VZ-MA's retail business, actually skewed VZ-MA's performance results so that it appeared that VZ-MA was not providing parity service.¹⁷ We find that VZ-MA's extensive analysis on

¹⁴ VZ-MA Reply Comments, Appdx., Tab 1, at ¶¶ 173-191 (Lacouture/Ruesterholz Reply Decl.).

¹⁵ VZ-MA Application, Appdx. B, Vol. 47, Tab 559, at 10, 31-32 (D.T.E. 99-271 Order Adopting VZ-MA's PAP, Issued 9/05/00)

¹⁶ VZ-MA Reply Comments, Appdx., Tab 3, at ¶ 16 (Guerard/Canny Reply Decl.).

¹⁷ Id. at ¶¶ 17-22, Attachs. B, C.

this point is persuasive. Should a CLEC contest this analysis, which is found in VZ-MA's CC Docket No. 00-176 reply comments and ex partes (and accompanying attachments), and provide supporting documentation, the Department would attempt to reconcile the competing data in a timely manner. As the FCC stated in its SWBT Kansas and Oklahoma Order, parties generally pointing to disparities in the Bell Operating Company's ("BOC") performance data without providing additional evidence of competitive harm is not persuasive to show nondiscriminatory access to UNEs.¹⁸

Since the date that the Department filed its Reply Comments in CC Docket No. 00-176, we directed VZ-MA to modify its Department-approved PAP to incorporate the requests of several CLECs to establish a separate Mode of Entry for xDSL, add line sharing-specific and other xDSL metrics, and add more xDSL metrics to the Critical Measures component of the PAP.¹⁹ In recognition of a related proceeding in New York and because of the inter-relationship between our PAP and New York's, the Department determined that it would await further NYPSC action before directing VZ-MA to make specific modifications to its PAP.²⁰

¹⁸ Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma, CC Docket No. 00-217, Memorandum Opinion and Order, FCC 01-29, at ¶ 189 (rel. Jan. 22, 2001) ("SWBT Kansas and Oklahoma Order").

¹⁹ See VZ-MA Supplemental Application, Appdx. B, Tab 4B (D.T.E. Order on Motions for Clarification and Reconsideration of the PAP, Issued 11/21/00) ("PAP Reconsideration Order").

²⁰ Id. at 6.

As noted by VZ-MA in its supplemental application, on December 15, 2000, the NYPSC ordered Verizon-New York to make changes to its PAP that are consistent with the directives contained in our PAP Reconsideration Order.²¹ In response, on December 22, 2000, Verizon-New York submitted a compliance filing that was approved by the NYPSC on January 24, 2001.²² VZ-MA submitted this NYPSC-approved compliance filing to the Department on January 30 and on February 2, 2001, the Department requested comments on this filing from interested participants to D.T.E. 99-271.²³ After our review of these comments, the Department will either direct VZ-MA to make the appropriate modifications to the amended PAP or approve the filing as being consistent with our PAP Reconsideration Order.

Finally, while VZ-MA's initial application was pending at the FCC, the Department initiated discussions between VZ-MA and Digital Broadband Communications, Inc. ("DBC") to reconcile competing claims concerning VZ-MA's xDSL performance.²⁴ In its comments to the FCC in opposition to VZ-MA's § 271 application, DBC raised a number of issues that the Department determined were significant enough to warrant Department investigation. A summary of these discussions and the Department's findings are contained in the Simon

²¹ VZ-MA Supplemental Application, Appdx. A, Vol. 1, Tab 1, at ¶¶ 175-176 (Lacouture/Ruesterholz Supp. Decl.)

²² Id. at ¶ 177.

²³ See Appdx. 3 (NYPSC-Approved Compliance Filing Submitted to D.T.E. on 1/30/01).

²⁴ See Appdx. 4 (D.T.E. Letter to VZ-MA and DBC, Issued 11/03/00).

affidavit.²⁵ This affidavit provides an analysis of the data provided by both VZ-MA and DBC in response to DBC's claims regarding the accuracy of VZ-MA's mechanized loop qualification database and VZ-MA's ability to provision quality xDSL loops. This analysis shows that DBC's claims are merely anecdotal and do not constitute evidence of any discriminatory practice by VZ-MA. VZ-MA's supplemental application also includes data that resulted from the Department's investigation.²⁶

II. CHECKLIST ITEM 2 - UNBUNDLED NETWORK ELEMENTS

A. Operations Support Systems - Pre-Ordering

1. Standard of Review

In its SWBT Kansas and Oklahoma Order, the FCC stated that for a BOC to demonstrate nondiscriminatory access to its OSS pre-ordering functions, it must show, among other things, that it provides nondiscriminatory access to "OSS pre-ordering functions associated with determining whether a loop is capable of supporting xDSL advanced technologies."²⁷ Specifically, the FCC requires the BOC to provide CLECs with access at the pre-ordering stage to the same detailed information the BOC makes available to itself concerning loop make-up information so that the CLEC may make fully informed judgments

²⁵ See Appdx. 1.

²⁶ See VZ-MA Supplemental Application, Appdx. A, Vol. 1, Tab 1, at ¶¶ 41-44, Attachs. M, N (Lacouture/Ruesterholz Supp. Decl.).

²⁷ SWBT Kansas and Oklahoma Order at ¶ 119.

about whether to provision xDSL service to end users.²⁸ As the FCC noted in its UNE Remand Order, the relevant inquiry is not whether the BOC's retail arm has access to a loop's underlying information but, rather, whether such information exists anywhere in the BOC's back office and can be accessed by any of the BOC's personnel. In addition, if that loop qualification information is not normally provided to the BOC's retail personnel but can be obtained by contacting any BOC personnel, then such information must be provided to other carriers within the same amount of time that it is obtained by the BOC's personnel.²⁹

2. Discussion and Conclusions

As explained in our Evaluation and Reply Comments, VZ-MA permits CLECs to obtain loop information relevant to determining whether that loop may support xDSL service.³⁰ In Massachusetts, a CLEC may obtain this information in one of three ways. First, the CLEC may query VZ-MA's enhanced mechanized loop qualification database prior to submitting an order. As we noted in our earlier filings, this database provides information beyond a simple "yes/no ADSL-compatible" response (e.g., this database includes the loop length and whether

²⁸ Id. at ¶ 120, citing Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, FCC 99-238 (rel. Nov. 5, 1999) ("UNE Remand Order").

²⁹ Id. at ¶ 121, citing UNE Remand Order at ¶¶ 427-431.

³⁰ D.T.E. Evaluation at 292-293, 295-296; D.T.E. Reply Comments at 31, 33.

such devices as load coils are present on the particular line).³¹ Before VADI became operational in Massachusetts, VZ-MA's retail personnel used the same loop qualification database as CLECs, which is consistent with VZ-MA's UNE Remand Order obligations.³² As of November 2000, VADI also obtains its loop qualification information from this database, known as "LiveWire."³³

Since the Department filed its Reply Comments in CC Docket No. 00-176 last year, we issued an Order addressing motions for reconsideration of several xDSL and line sharing rulings contained in a September 29, 2000 Department Order.³⁴ Among other things, the Phase III-A Reconsideration Order upheld an earlier Department decision not to require VZ-MA to make direct access to its Loop Facility Assignment Control System ("LFACS") available to CLECs. The Department issued this ruling after careful review of the UNE Remand Order and the record in our Phase III proceeding. Specifically, we found that under this FCC Order, VZ-MA may fulfill its obligation to provide nondiscriminatory access to its OSS by making available the information contained in that OSS (*i.e.*, LFACS) within the same amount of time as it is provided to VZ-MA's non-retail employees, in lieu of direct access to

³¹ D.T.E. Evaluation at 295 n.937; D.T.E. Reply Comments at 76.

³² VZ-MA Application, Appdx. B, Vol. 42, Tab 494, at ¶ 21 (VZ-MA August OSS Aff.).

³³ VZ-MA Supplemental Application, Appdx. A, Vol. 2, Tab 4, at ¶ 14 (Dowell Supp. Decl.); VZ-MA Supplemental Application, Appdx. A, Vol. 2, Tab 2, at ¶¶ 51-54 (Sapienza/Mulcahy Supp. Decl.).

³⁴ VZ-MA Supplemental Application, Appdx. B, Tab 4C (Phase III-A Reconsideration Order, D.T.E. 98-57-Phase III-A, Issued 1/08/01).

that OSS.³⁵ This finding makes clear our disagreement with an argument advanced by several CLECs in CC Docket No. 00-176, that because VZ-MA does not provide direct access to LFACS, it is not meeting its § 271 obligation to provide nondiscriminatory access to loop qualification information.³⁶ Finally, we noted that we simply did not have information in our record about how long VZ-MA's back office personnel require to access and extract CLEC-requested information from LFACS. We determined that this narrow issue should be investigated further in our continuing Phase III proceeding.³⁷

Immediately prior to issuance of our Phase III-A Reconsideration Order, VZ-MA filed a letter with the Department updating the status of several related matters pending in the New York regional collaborative proceeding, namely, electronic access to the loop make-up information contained in LFACS and development of a process that would enable CLECs to submit requests for manual loop qualifications using a pre-ordering, as opposed to ordering,

³⁵ Id. at 6.

³⁶ D.T.E. Reply Comments at 33. Our record is also clear that VZ-MA's retail personnel do not have direct access to LFACS, and VZ-MA's supplemental application affirms that VADI also does not have such access. See VZ-MA Supplemental Application, Appdx. A, Vol. 1, Tab 1, at ¶ 45 (Lacouture/Ruesterholz Supp. Decl.). If this were not true, we would agree with DBC and Covad Communications Company that VZ-MA fails to provide nondiscriminatory access to loop qualification information.

³⁷ VZ-MA Supplemental Application, Appdx. B, Tab 4C, at 9 (Phase III-A Reconsideration Order). Similarly, should VZ-MA's back office personnel use other OSS to perform a manual loop qualification, we would review the amount of time required to obtain the relevant information from that OSS and to provide it to the requesting CLEC.